IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16494 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANGAL MINERALS - Petitioner(s)
Versus
THE STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
M/S THAKKAR ASSOC. for Petitioner(s) : 1,
MS FALGUNI PATEL, AGP for Respondent(s) : 1 - 3.
None for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 28/06/2007

ORAL JUDGMENT

Rule. Ms. Falguni Patel, Ld. AGP waives service of rule on behalf of respondents. At the request of the learned advocates for the parties, the matter is taken up for final hearing today.

2. The petitioner has complained about order dated 29/5/2007 passed under the signature of the Section Officer, Industries & Mines Department, which is addressed to the Commissioner, Geology, Science & Mineral Department, respondent no. 2 herein and copy thereof is endorsed to the petitioner, whereby the request to condone the delay in submitting the application for renewal of mining lease has been rejected. It is the say of the petitioner that it had submitted application dated 17/4/2007 to the Secretary, Mines and Minerals Department i.e., respondent no. 1 herein with a prayer to condone the delay caused in submitting the application for renewal of the mining lease. The said application was received by respondent no. 1 on 23/5/2007. On 29/5/2007 the impugned order has been passed. It is passed on the ground that since recovery notice has been issued by the office of respondent no. 3 on the petitioner for a sum of Rs.49,22,38,029/=, the petitioner's prayer for delay condonation could not be granted.

3. I have heard Mr. PM Thakkar, Ld. Senior Advocate for the petitioner and Ms. Falguni Patel, Ld. AGP for respondents. The main submission of Mr. Thakkar is that the impugned order is passed without observing the principles of natural justice, in as much as no opportunity of hearing has been granted to the petitioner. He has further submitted that merely

because recovery notice has been issued that cannot be a ground for rejection of the delay condonation application.

3.1. As against that, Ms. Patel has submitted that huge amount is outstanding and in view of the same, respondent no. 1 was justified in rejecting the application for condonation of delay.

4. There is no dispute that the impugned order has been passed without affording any opportunity of hearing to the petitioner. It is obviously passed in violation of principles of natural justice. In view of the same, on that ground alone, the impugned order deserves to be quashed. Secondly, the said order is passed in connection with delay condonation application submitted by the petitioner on 17/4/2007. However, the order clearly shows that it has not been taken into consideration at all and the application is rejected totally on irrelevant ground. In view of the same, the impugned order deserves to be quashed and it is hereby quashed and set aside. In my opinion, the following directions will serve the interest of justice :-

I. The matter is remanded to respondent no. 1 to take a decision afresh after granting adequate opportunity to the petitioner.

II. Respondent no. 1 is directed to issue notice to the petitioner at least one week in advance intimating the date of hearing to the petitioner. Upon hearing the petitioner and considering the material that may be produced by the petitioner, respondent no. 1 shall take appropriate decision strictly on merits of the case and in accordance with law. The decision

that may be taken by the respondent be intimated to the petitioner within 15 days from the date of the decision.

III. The entire exercise to be completed on or before 30/09/2007.

With the aforesaid directions, rule is made absolute. No order as to costs.

[Akshay H Mehta, J.]

* Pansala.